

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WISCONSIN

In re:	)	
RUSSELL W. BANKS and	)	Case No. 11-37601-PP
BONNIE M. BANKS,	)	Chapter 13
	)	
Debtors.	)	

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**NOTICE AND REQUEST TO MODIFY CHAPTER 13 PLAN**

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Russell W. Banks and Bonnie M. Banks have filed papers with the court requesting modification of the Chapter 13 Plan in the above case.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the court to modify the plan as proposed, or if you want the court to consider your views on the request, then on or before 21 days after service of this notice, you or your attorney must:

File with the court a written request for hearing which shall contain a short and plain statement of the factual and legal basis for the objection. File your written request at:

Clerk of Bankruptcy Court  
517 E. Wisconsin Avenue, Room 126  
Milwaukee, WI 53202-4581

If you mail your request to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Anton B. Nickolai  
Nickolai & Poletti, LLC  
308 Milwaukee Avenue  
Burlington, WI 53105

If you or your attorney does not take these steps, the court may decide that you do not oppose the request and may enter an order modifying the Plan.

Drafted by:  
Anton B. Nickolai  
State Bar No. 1060676  
Nickolai & Poletti, LLC  
308 Milwaukee Avenue  
Burlington, WI 53105  
(262) 757-8444; Fax (262) 287-9725  
anton@nickolailaw.com

### REQUEST TO MODIFY CHAPTER 13 PLAN

1. The Proponent of this modification is:
  - A.   X   the Debtor;
  - B.        the Chapter 13 Trustee (post-confirmation modifications only);
  - C.        the holder of an unsecured claim (Name:) (post-confirmation only).
2. This is a request to modify a Chapter 13 Plan (Select A. or B.):
  - A.   X   post-confirmation;
  - B.        pre-confirmation (Select i. or ii.);
    - i.        Debtor(s)/Debtor(s) attorney certifies that the proposed modification does not materially adversely affect creditors (LBR 3015(b)); or
    - ii.        Debtor(s)/Debtor(s) attorney certifies that the proposed modification materially adversely affects only the following creditors and a copy of the proposed modification has been served on them (Local Bankruptcy Rule 3015(b)). The creditors affected are:
3. The Proponent wishes to modify the Chapter 13 Plan to do the following: The debtors intend to amend their plan to address feasibility issues.
4. The reason(s) for the modification is/are: The debtors are complying with an order.
5. Select A. or B.
  - A.   X   The Chapter 13 Plan confirmed on February 29, 2013, is modified as follows:
    - a. **The debtors' plan payment shall increase to \$70.00 semi-monthly to ensure plan feasibility.**
    - b. **Creditors with allowed general unsecured claims shall receive a pro rata distribution of \$0.00 or 0%, whichever is greater.**
    - c. **The debtors shall turn over to the trustee 50% of all net federal and state income tax refunds received from the date of this motion through the conclusion of their plan.**
    - d. **Attorney fees as a class shall be paid pro rata prior to any other creditor.**
  - B.        The unconfirmed Chapter 13 Plan dated is modified as follows:

All remaining terms and provisions of the Plan are unaffected unless specifically addressed herein. In the event of a conflict between the original Plan and the modification set forth above, the latter shall supersede and control.

6. **BY SIGNING BELOW THE PROPONENT OF THE MODIFICATION CERTIFIES THAT, AFTER REVIEW OF THE MODIFICATION AND ALL OTHER TERMS AND PROVISIONS OF THE PLAN, THOSE REMAINING TERMS AND PROVISIONS OF THE PLAN ARE CONSISTENT WITH THE PROPOSED MODIFICATIONS.**

**CERTIFICATION**

I, Anton B. Nickolai, attorney for the debtors, Russell W. Banks and Bonnie M. Banks, certify that I have reviewed the modification proposed above with the debtors, and that the debtors have authorized me to file it with the court.

/s/ Anton B. Nickolai

\_\_\_\_\_  
Counsel for the debtor

May 31, 2013

\_\_\_\_\_  
Date

WHEREFORE, the Proponent requests that the court approve the modification to the Chapter 13 Plan as stated herein.

Dated: May 31, 2013.

Nickolai & Poletti, LLC  
Attorneys for Debtors

/s/

\_\_\_\_\_  
By: Anton B. Nickolai  
State Bar No. 1060676

Drafted by:  
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